

NOTICE OF MEETING



CITY OF BRANSON

INDUSTRIAL DEVELOPMENT AUTHORITY BOARD OF DIRECTORS

Conference Call Meeting – Monday, February 14, 2011 – 2:00 p.m.
Municipal Courtroom – Branson City Hall – 110 W. Maddux

AGENDA

- 1) Call to Order.
- 2) Roll Call.
- 3) General presentation regarding the Industrial Development Authority.
- 4) Discussion of potential future financings.
- 5) Adjourn.

For more information please visit www.cityofbranson.org or contact:

Lisa Westfall, City Clerk, 417-337-8522

Jerry Adams, Public Information Director, 417-337-8548

Posted: February 9, 2011

By: _____ At: _____

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Memorandum

To: Lisa Westfall, City Clerk

From: Rick McConnell

Subject: Background on Industrial Development Authorities

Date: January 25, 2011

The following is some background on the use of Industrial Development Authorities in Missouri, as well as a description of past projects undertaken by the Industrial Development Authority of the City of Branson, Missouri (the "Branson IDA"). I would be happy to answer any questions on this information.

A. General Background

Chapter 349 of the Missouri Revised Statutes (the "Industrial Development Corporations Act") permits cities and counties to create local industrial development authorities ("IDA's") that are authorized to issue bonds and notes to finance the costs of certain types of projects without the requirement of obtaining voter approval. The Missouri Supreme Court upheld the constitutionality of the Industrial Development Corporations Act in *State ex rel. Jardon v. The Industrial Development Authority of Jasper County*, 570 S.W.2d 666 (Mo. En Banc 1978). In addition, the Internal Revenue Service issued a favorable ruling on the tax-exempt status of interest on bonds issued by an IDA created under the Industrial Development Corporations Act (I.R.S. Private Letter Ruling dated January 2, 1979).

The types of projects that may be financed with bonds or notes issued under the Industrial Development Corporations Act include assembly plants, manufacturing plants, processing plants, fabricating plants, distribution centers, warehouses, certain waterborne vessels, public facilities, office buildings, for-profit or not-for-profit hospitals, not-for-profit nursing or retirement facilities, physical fitness, recreational, indoor and resident outdoor facilities operated by not-for-profit organizations, commercial facilities, agricultural facilities and pollution control facilities. In connection with such projects, the bond proceeds may be used to finance land, buildings, structures, fixtures, machinery and equipment. Specifically excluded from financing under the Industrial Development Corporations Act are facilities

designed for the sale or distribution to the public of electricity, gas, water, or telephone, and any cable television or other public utility-type facility.

The interest on bonds or notes issued by an IDA is exempt from Missouri state income taxation. As a general rule, these bonds or notes will also be exempt from registration under state securities laws (known as “Blue Sky Laws”). Projects financed through an IDA are subject to real and personal property taxes, except for projects in Kansas City to the extent they are otherwise exempt from property taxes and projects of not-for-profit hospitals.

IDA’s should comply with the Missouri Open Meetings Law, Sections 610.010 to 610.030 of the Missouri Revised Statutes, which requires public notice of the time, date, and place of each meeting and the tentative agenda in a manner reasonably calculated to apprise the public of that information. Notice is considered reasonable if given at least 24 hours prior to the meeting by posting such information at the office of the IDA or other prominent place and by making copies available to representatives of the news media who request notice.

B. History of Branson IDA

The Branson IDA was formed in 2004 in association with the financing of improvements at Branson Hills. The Branson IDA has previously issued six series of bonds in association with three separate projects. These financings are further described in **Section C**.

C. Overview of Typical Financing Structures and Past Branson IDA Financings

Financing structures in IDA transactions can vary considerably based on what is being financed, the revenues identified to repay the financing and Federal income tax considerations related to both of those factors. The following describe some typical financing structures and past Branson IDA financings that have been similar in nature.

1. Industrial Development Bonds (“IDB”) – Under a typical IDB structure, an IDA issues its bonds pursuant to a trust indenture entered into between the IDA and a bank or trust company acting as trustee. The IDA and the company enter into either a loan agreement, a lease agreement or a sale agreement that will set forth specific requirements regarding the application of the bond proceeds. The agreement will require the IDA, or the company acting on behalf of the IDA, to use the proceeds of the bonds to purchase and construct the project. Regardless of the type of agreement used, the company will be entitled to possession and use of the project after it is acquired or completed and will be unconditionally obligated to make payments to the trustee sufficient to pay principal and interest on the bonds as they become due. In order to secure payment of the bonds, the IDA pledges and assigns to the trustee bank under the trust indenture the payments to be received from the company pursuant to the agreement. A deed of trust and a security agreement mortgaging and granting a security interest in the project may also be given to further secure payment of the bonds. The bonds might also be secured by a letter of credit from a bank. If the bonds are to be issued so that the interest is exempt from Federal income tax, public hearing and State approval requirements may also apply.

This is the general structure that was used in 2007 when the Branson IDA issued \$2,200,000 of its Multifamily Housing Revenue Bonds (Country Ridge Residences Phase II Project) Series 2007 to finance costs of completing a multifamily residential project in the City.

2. Tax Increment Financing (“TIF”) Bonds – IDA’s can issue bonds payable from TIF revenues generated by a development project. In general, these revenues include 50% of incremental Economic Activity Taxes (i.e. sales taxes) and 100% of incremental Payments in Lieu of Taxes (attributable to property taxes) generated by certain areas designated by the City. The City and the IDA enter into a “Financing Agreement” under which the City agrees to make these incremental revenues available to repay bonds issued by the IDA, and the IDA issues the bonds under a trust indenture between the IDA and a bank or trust company. Similar to the IDB financing, the IDA pledges and assigns to the trustee bank the payments to be received by the City under the Financing Agreement.

This structure was used when the Branson IDA issued the following series of bonds to fund costs related to construction of the Branson Hills (Target, Home Depot, etc.) and Branson Shoppes (Wal-Mart Supercenter, etc.) shopping centers, as well as costs related to construction of the Bass Pro store at Branson Landing:

- \$18,560,000 Limited Obligation Tax Increment Revenue Bonds (Branson Landing – Retail Project) Series 2005A
- \$14,760,000 Tax Increment Revenue Bonds (Branson Hills Redevelopment Project) Series 2005A
- Not to Exceed \$1,900,000 Subordinate Tax Increment Revenue Bonds (Branson Hills Redevelopment Project) Series 2005B
- \$35,545,000 Tax Increment Revenue Bonds (Branson Shoppes Redevelopment Project) Series 2006A
- Not to Exceed \$9,385,045 Subordinate Tax Increment Revenue Bonds (Branson Shoppes Redevelopment Project) Series 2006B

3. Bonds Repaid from Other Sources – IDA’s can also issue bonds payable from other sources, such as annual appropriation of City funds like its transportation sales tax, tourism tax or other specific sources such as neighborhood improvement district special assessments received by the City. This is the structure proposed to be utilized in the possible future financings that the IDA may be requested to consider as described in **Section D**.

In addition, other financing structures may be brought to the Branson IDA for its consideration.

D. Possible Future Branson IDA Financings

The Branson IDA may be asked to consider financings of varying types in the future. Some that have been discussed over the past few months include:

1. 248/65 Intersection Improvements – The City is working with the Missouri Department of Transportation (“MoDOT”) on improvements to the 248/65 intersection in the City. MoDOT has approved an Enhancement Grant for the project and will be participating in the cost. In order to access the grant funds, the City must provide funds to pay for the project cost above the \$1,571,500 that MoDOT is contributing towards the project. MoDOT requires that the City funds be deposited before the project

starts. Although MoDOT has a financing program where cities across Missouri can borrow the local match from the State, the City determined through a request for proposal process that it could obtain funds at a lower cost by entering into a financing arrangement with a local bank.

As further background on this particular project, often when 4th class cities such as Branson borrow money for public improvements an IDA is not used. Cities often will enter into lease/purchase arrangements for such improvements. However, the improvement to be funded is part of the State highway system and would not be a likely candidate for a City lease/purchase financing. Because of Branson's status as a 4th class statutory City under Missouri law, it is limited under Missouri law as to the types of financing structures it can enter into. Consequently, the involvement of the IDA will be necessary so that the City and the financing bank can obtain a legal opinion as to the validity of the financing and the tax-exempt status of the interest on the obligation.

2. Energy Performance Financing – generally projects of this type involve financing improvements that provide energy cost savings to various facilities. The cost savings from the improvements is used to repay the financing. The Board of Aldermen of the City is evaluating whether to move forward with this project. If it moves forward, it is possible that the IDA would be involved in the financing because certain City facilities that would receive improvements are currently subject to lease/purchase or other financing arrangements that may make a normal City lease/purchase financing a less viable option.

Whether these or other future financings go forward depends on a number of factors including, as applicable, revenue generation, interest rate conditions, evaluation of general City finances and legislative approval by the City Board of Aldermen.